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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Algeria,* Bangladesh, Bolivia (Plurinational State of),* Brazil, China, Ecuador,* Egypt, Eswatini,* Ethiopia,* Haiti,* India, Indonesia,* Iraq, Kuwait,* Mongolia,* Peru, Philippines, Qatar, Saudi Arabia, Senegal, South Africa, Thailand,* Tunisia, Turkey,* United Arab Emirates,* Uruguay, State of Palestine:* draft resolution

41/... Access to medicines and vaccines in the context of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights,

Reaffirming also that the right of everyone to the enjoyment of the highest attainable standard of physical and mental health is a human right as reflected in, inter alia, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child, and, with respect to non-discrimination, in the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities, and that the Constitution of the World Health Organization also recognizes the enjoyment of the highest attainable standard of health as a fundamental right of every human being, without distinction of race, religion, political belief, economic or social condition,

Recalling Human Rights Council resolution 32/15 of 1 July 2016 and all relevant previous resolutions and decisions on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health adopted by the Council, the General Assembly and the Commission on Human Rights,

Recalling also the Declaration on the Right to Development, which, inter alia, establishes that States should take, at the national level, all measures necessary for the realization of the right to development and should ensure, inter alia, equality of opportunity for all in their access to basic resources, such as health services,

* State not a member of the Human Rights Council.



Reaffirming General Assembly resolution 70/1 of 27 September 2015, entitled “Transforming our world: the 2030 Agenda for Sustainable Development”, in which the Assembly adopted the outcome document of the United Nations summit for the adoption of the post-2015 development agenda recognizing that eradicating poverty in all its forms and dimensions, including extreme poverty, is among the greatest global challenges and an indispensable requirement for sustainable development, and envisaging a world free of poverty, hunger, disease and want, a world of universal respect for human rights and human dignity that includes equitable and universal access to health care and social protection, and where physical, mental and social well-being are assured,

Welcoming the Sustainable Development Goals, including, inter alia, Goal 3 on ensuring healthy lives and promoting well-being for all at all ages, as well as its specific and interlinked targets, such as target 3.8, on achieving universal health coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all, other health-related Goals and targets, and the guiding principle of the 2030 Agenda, to leave no one behind,

Welcoming also the panel discussion convened by the Human Rights Council on 8 March 2017, during its thirty-sixth session, to exchange views on good practices and key challenges relevant to access to medicines as one of the fundamental elements of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,¹

Taking note of the report of the High-level Panel on Access to Medicines,² convened by the Secretary-General, which made proposals on how to address policy incoherence in public health, trade, the justifiable rights of inventors, and human rights,

Recalling General Assembly resolution 71/3 of 5 October 2016, in which the Assembly adopted the political declaration of the high-level meeting of the General Assembly on antimicrobial resistance, wherein Heads of State and Government and other representatives underlined that affordability and access to existing and new antimicrobial medicines, vaccines and diagnostics should be a global priority and should take into account the needs of all countries,

Recalling also General Assembly resolution 73/2 of 10 October 2018, in which the Assembly adopted the political declaration of the third high-level meeting of the General Assembly on the prevention and control of non-communicable diseases, wherein Heads of State and Government and other representatives committed to promoting increased access to affordable, safe, effective and quality medicines and diagnostics and other technologies,

Recalling further General Assembly Resolution 73/3 of 10 October 2018, in which the Assembly adopted the political declaration of the high-level meeting of the General Assembly on the fight against tuberculosis, wherein Heads of State and Government and other representatives committed to promoting access to affordable medicines, including generics, for scaling up access to affordable tuberculosis treatment,

Reaffirming the importance of the implementation of the Global Strategy and the Plan of Action on Public Health, Innovation and Intellectual Property, in World Health Assembly resolutions WHA61.21 and WHA62.16 and decision WHA71(9) of 25 May 2018, which aims to promote new thinking on innovation and access to medicines and to secure an enhanced and sustainable basis for needs-driven essential health research and development relevant to diseases that disproportionately affect developing countries,

Welcoming the WHO Road Map for Access to Medicines, Vaccines and other Related Health Products 2019–2023 presented at the seventy-second session of the World Health Assembly, which recognizes that improving access to health products is a multidimensional challenge that requires comprehensive national policies and strategies aligning public health needs with economic and social development objectives, and promoting collaboration with other sectors, partners and stakeholders,

¹ See A/HRC/36/19.

² A/70/811.

Reaffirming the importance of improving transparency of markets for medicines, vaccines and other health products across the whole value chain, and taking into consideration resolution WHA72.8 adopted by the World Health Assembly at its seventy-second session,

Seriously concerned about the high prices of some health products and the inequitable access within and among Member States, as well as the financial hardships associated with high prices, which impede progress towards achieving universal health coverage for all,

Recalling the Declaration on Primary Health Care, adopted in October 2018 in Astana, which recognizes the need to address the inefficiencies and inequities that expose people to financial hardship resulting from their use of health-care services by ensuring better allocation of resources for health, adequate financing of primary health care, and to work towards the financial sustainability, efficiency and resilience of national health systems, appropriately allocating resources to primary health care based on national context,

Noting with concern that, for millions of people throughout the world, the full and equal enjoyment of the right to the highest attainable standard of physical and mental health remains a distant goal,

Concerned about the interrelatedness between poverty and other social and economic determinants of health and the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, in particular the fact that ill health can be both a cause and a consequence of poverty,

Recognizing that universal health coverage implies that all people have access without discrimination to nationally determined sets of the needed promotive, preventive, curative, palliative and rehabilitative essential health-care services, and essential, safe, affordable, effective and quality medicines and vaccines, while ensuring that the use of these services does not expose users to financial hardship, with special emphasis on the poor, vulnerable and marginalized segments of the population,

Welcoming General Assembly resolution 72/139 of 12 December 2017, in which the Assembly decided to convene the upcoming high-level meeting on universal health coverage, and resolution 73/131 of 13 December 2018, in which the Assembly defined its scope, modalities, format and organization,

Recognizing the need for States, in cooperation with international organizations and civil society, including non-governmental organizations, philanthropic foundations, academic and research institutions and the private sector, involved at all stages of the pharmaceuticals value chain, including research and development, manufacture, distribution and supply of pharmaceutical products, to create favourable conditions at the national, regional and international levels to ensure the full and effective enjoyment of the right of everyone to the highest attainable standard of physical and mental health,

Recalling that the Doha Ministerial Declaration on the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and Public Health confirms that the Agreement does not and should not prevent members of the World Trade Organization from taking measures to protect public health, and that the Declaration, accordingly, while reiterating the commitment to the Agreement, affirms that it can and should be interpreted and implemented in a manner supportive of the rights of members of the Organization to protect public health and, in particular, to promote access to medicines for all, and further recognizes, in this connection, the right of members of the Organization to use, to the full, the provisions of the above-mentioned Agreement, which provide flexibility for this purpose,

Welcoming the entry into force of the protocol amending the TRIPS Agreement, which adapt the rules of the global trading system to the public health needs of people in poor countries, thus contributing to the realization of the right to the enjoyment of the highest attainable standard of physical and mental health, particularly regarding poorer populations,

Regretting the high number of people still without access to affordable, safe, effective and quality medicines and vaccines, and underscoring that improving such access could save millions of lives every year, and noting with deep concern that, globally, two billion people

have no access to the medicines they need, while recognizing that the lack of access to medicines and vaccines is a challenge that affects people not only in developing countries but also in developed countries, even though the disease burden is disproportionately high in developing countries,

Concerned at the lack of access to quality, safe, effective and affordable medicines for children in appropriate dosage forms, and at problems in the rational use of children's medicines in many countries, and that, globally, children aged under 5 years still do not have secure access to medicines for the treatment communicable and non-communicable diseases, including rare diseases,

Concerned also that the increasing incidence of non-communicable diseases constitutes a heavy burden on society, with serious social and economic consequences, which represent a leading threat to human health and development, and recognizing the urgent need to improve accessibility to safe, affordable, effective and quality medicines and technologies to diagnose, treat and control non-communicable diseases, to strengthen viable financing options and to promote the use of affordable medicines, including generics, as well as improved access to preventive, curative, palliative and rehabilitative services, particularly at the community level,

Recognizing the need to appropriately address challenges, gaps, market failures and opportunities regarding the research and development of health technologies, availability and affordability to treat, inter alia, rare and neglected diseases, and to respond to the growth of emerging challenges, such as antimicrobial resistance, among others, with a view to addressing adequately public health needs and protecting, respecting and fulfilling human rights, and taking into account the necessity to promote frameworks that meet public health needs, while adequately rewarding innovation,

Considering the report by the Director-General of the World Health Organization on cancer medicines, which, pursuant to resolution WHA70.12, examined the impact of pricing approaches, including transparency, on availability and affordability of medicines for the prevention and treatment of cancer,

Recognizing with appreciation the introduction of new pharmaceutical products made possible through investment in innovation for cancer treatment in recent years, while noting with great concern the increasing cost to health systems and patients, and emphasizing the importance of addressing barriers in access to safe, quality, effective and affordable medicines, medical products and appropriate technology for cancer prevention, detection, screening diagnosis and treatment, including surgery,

Expressing deep concern at recent outbreaks of highly infectious pathogens with pandemic potential, which demonstrate the potential vulnerability of populations to them, and in this context reaffirming and underscoring the importance of research into and development of new and innovative medicines and vaccines and of ensuring access to safe, affordable, effective and quality medicines and vaccines to all, including new and innovative medicines, and of building and/or strengthening health system capacities, including primary health care, for detecting, preventing and responding in a timely manner to outbreaks, epidemics, pandemics and other health emergencies,

1. *Recognizes* that access to medicines and vaccines is one of the fundamental elements for the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the correspondent objectives of universal health coverage and health for all without discrimination, with special attention to reaching those furthest behind first;

2. *Stresses* the responsibility of States to ensure access for all, without discrimination, to medicines and vaccines, in particular essential medicines, that are affordable, safe, effective and of quality;

3. *Calls upon* States to promote access to safe, effective, quality and affordable medicines and vaccines for all, including through the use, to the full, of the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights, which provide flexibility for that purpose, while recognizing that the protection of intellectual property is

important for the development of new and innovative medicines and vaccines, and the concerns about its effects on prices and public health;

4. *Also calls upon* States to take steps to implement policies and plans to promote access to comprehensive and cost-effective prevention, treatment and care for the integrated management of non-communicable diseases, including, inter alia, increased access to affordable, safe, effective and quality medicines, vaccines and diagnostics and other health products, including through the full use of Trade-Related Aspects of Intellectual Property Rights provisions and flexibilities;

5. *Reiterates* the call upon States to continue to collaborate, as appropriate, on models and approaches that support the delinkage of the cost of new research and development from the prices of medicines, vaccines and diagnostics for diseases that predominantly affect developing countries, including emerging and neglected tropical diseases, so as to ensure their sustained accessibility, affordability and availability and to ensure access to treatment for all those in need;

6. *Calls upon* the international community to continue to assist developing countries in promoting the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, including through access to medicines, in particular essential medicines, vaccines, diagnostics, medical devices and other health products that are affordable, safe, effective and of quality, and through financial and technical support, training of personnel and other capacity-building measures, while recognizing that the primary responsibility for respecting, protecting and fulfilling all human rights rests with States, while recognizing the fundamental importance of the transfer of environmentally sound technologies on favourable terms, including on concessional and preferential terms, as mutually agreed;

7. *Recognizes* the innovative funding mechanisms that contribute to the availability of vaccines and medicines in developing countries, such as the Global Fund to Fight AIDS, Tuberculosis and Malaria, the Gavi Alliance and UNITAID, and calls upon all States, United Nations agencies, funds and programmes, in particular the World Health Organization, and relevant intergovernmental organizations, within their respective mandates, and encourages relevant stakeholders, including companies involved in the research and development, manufacture, importing, distribution and supply of pharmaceuticals, while safeguarding public health from undue influence by any form of real, perceived or potential conflict of interest, to further collaborate to enable equitable access to quality, safe and effective medicines and vaccines that are affordable to all, including those living in poverty, children and other persons in vulnerable situations;

8. *Encourages* engagement between Governments, international organizations, non-governmental organizations, academic and research institutions, philanthropic foundations and the private sector, and greater policy coherence and coordinated actions through whole-of-government and Health in All Policies approaches, to find solutions to health challenges, such as the need for public health-driven research and development, improved existing and alternative frameworks to adequately reward innovation, pricing and affordability of health products, and leveraging innovative technologies, including digital technologies, and solutions for health;

9. *Encourages* States, in cooperation with other stakeholders, to redouble efforts to achieve a continuous supply of quality, safe, effective and affordable health products through research and development that meets public health needs, for the efficient application and management of intellectual property standards, to carry out evidence-based selection of health products and to seek fair and affordable pricing, to adopt good procurement and supply chain management and to promote appropriate prescribing, dispensing and rational use of health products;

10. *Recognizes* the importance of adequately training the health workforce, including community health workers, and of improving health literacy in order to achieve the highest attainable standard of physical and mental health and strengthen universal health coverage;

11. *Urges* all States, United Nations agencies and programmes and relevant intergovernmental organizations, especially the World Health Organization, within their respective mandates, and encourages non-governmental organizations and relevant stakeholders, including pharmaceutical companies, to promote innovative research and development to address health needs in developing countries, including access to safe, effective, quality and affordable medicines and vaccines, and in particular with regard to diseases disproportionately affecting developing countries, and the challenges arising from the growing burden of non-communicable diseases, taking into account the Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property of the World Health Organization;

12. *Invites* the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, while considering the many ways towards the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, to continue to focus on the human rights dimension of access to medicines and vaccines when discharging his or her duties, in accordance with the mandate;

13. *Invites* Member States and all stakeholders, including relevant United Nations bodies, agencies, funds and programmes, treaty bodies, special procedure mandate holders, national human rights institutions, civil society and the private sector, to promote policy coherence in the areas of human rights, public health, intellectual property and international trade and investment when considering access to medicines and vaccines;

14. *Requests* the High Commissioner:

(a) To convene, before the forty-sixth session of the Human Rights Council, a full-day intersessional seminar on good practices, key challenges and new developments relevant to access to medicines and vaccines as one of the fundamental elements of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, in coordination with the World Health Organization;

(b) To invite States, relevant United Nations bodies, agencies, funds and programmes, treaty bodies, special procedure mandate holders, national human rights institutions, civil society, the private sector and other relevant stakeholders, with a view to ensuring their participation in the seminar;

(c) To submit to the Human Rights Council at its forty-sixth session a report, in the form of a summary, on the seminar.
